

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ABRAHAM CRUZ,

Plaintiff,

v.

FEDERAL BUTNER MENTAL  
HEALTH HOSPITAL, *et al.*,

Defendants.

No. 1:20-CV-01931

(Chief Judge Brann)

(Magistrate Judge Schwab)

**ORDER**

**JULY 20, 2023**

Abraham Cruz filed this civil rights complaint alleging that numerous defendants violated his constitutional rights during his incarceration at a federal prison and medical center in Butner, North Carolina.<sup>1</sup> Magistrate Judge Susan E. Schwab has issued a Report and Recommendation recommending that this Court transfer Cruz’s complaint to the United States District Court for the Eastern District of North Carolina, as venue properly lies within that District.<sup>2</sup> Cruz has not filed timely objections to the Report and Recommendation.

“Where no objection is made to a report and recommendation, this Court will review the recommendation only for clear error.<sup>3</sup> Conversely, “[i]f a party objects timely to a magistrate judge’s report and recommendation, the district court must ‘make a de novo

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<sup>1</sup> Doc. 1.

<sup>2</sup> Doc. 25.

<sup>3</sup> Fed. R. Civ. P. 72(b), advisory committee notes; *see Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that court should in some manner review recommendations regardless of whether objections were filed).

determination of those portions of the report or specified proposed findings or recommendations to which objection is made.”<sup>4</sup> Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge’s findings or recommendations.<sup>5</sup> Upon review of the record, the Court finds no error—clear or otherwise—in Magistrate Judge Schwab’s conclusion that venue is improper in this District and that this action should be transferred to the United States District Court for the Eastern District of North Carolina, where “a substantial part of the events or omissions giving rise to the claim occurred.”<sup>6</sup> Accordingly, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Susan E. Schwab’s Report and Recommendation (Doc. 25) is **ADOPTED**;
2. The Clerk of Court is directed to **TRANSFER** this complaint to the United States District Court for the Eastern District of North Carolina;
3. A ruling on Cruz’s pending motion to proceed *in forma pauperis* (Doc. 22) is **DEFERRED** to the transferee court; and
4. The Clerk of Court is directed to **CLOSE** this case.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann  
Chief United States District Judge

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<sup>4</sup> *Equal Emp’t Opportunity Comm’n v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)).

<sup>5</sup> 28 U.S.C. § 636(b)(1); Local Rule 72.31.

<sup>6</sup> 28 U.S.C. § 1391(b)(2).